

Notice of Allowability

Application No.

09/675,975

Examiner

Qamrun Nahar

Applicant(s)

HENRY, GREGORY

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE filed on 05/23/2005.
2. ☒ The allowed claim(s) is/are 1, 4-10, 13-20, 22-23 and 25-30, renumbered 1-24.
3. ☒ The drawings filed on 27 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


TUAN DAM
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

1. This action is in response to the RCE filed on 05/23/2005.
2. The rejection under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention to claims 10 and 13-19 is withdrawn in view of applicant's amendment.
3. The rejection under 35 U.S.C. 103(a) as being unpatentable over Hayashi (U.S. 5,396,631) in view of Buzbee (U.S. 5,815,720), and further in view of Granston (U.S. 5,966,538) to claims 1, 4-10, 13-20, 22-23 and 25-30 is withdrawn in view of applicant's amendment and remarks/arguments.
4. Claims 1, 10 and 20 have been amended.
5. Claims 1, 4-10, 13-20, 22-23 and 25-30 are pending.
6. Claims 1, 4-10, 13-20, 22-23 and 25-30 are allowed, renumbered 1-24.

EXAMINER'S AMENDMENT

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin G. Shao (Reg. No. 45,095) on August 11, 2005 to obviate any potential 35 USC 101 issues and to put the claims in condition for allowance.

The application has been amended as follows:

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In the Claims:

Claims 10 and 13-19 have been amended as follows:

Claim 10 (Currently amended),

At line 1, before “medium” insert storage.

Claim 13 (Currently amended),

At line 1, before “medium” insert storage.

Claim 14 (Currently amended),

At line 1, delete “article defined” and replace with machine-readable storage medium.

Claim 15 (Currently amended),

At line 1, before “medium” insert storage.

Claim 16 (Currently amended),

At line 1, before “medium” insert storage.

Claim 17 (Currently amended),

At line 1, before “medium” insert storage.

Claim 18 (Currently amended),

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At line 1, before “medium” insert storage.

Claim 19 (Currently amended),

At line 1, before “medium” insert storage.

- END -

REASONS FOR ALLOWANCE

8. The following is an examiner’s statement of reasons for allowance:

The closest cited prior arts, the combination of Hayashi (U.S. 5,396,631), Buzbee (U.S. 5,815,720), and Granston (U.S. 5,966,538) teaches a method of optimizing source language routine. However, the cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, “specifying an initial value of each routine variable by calling an initialization routine ... the initialization routine being called from the intermediate language routine; ... measuring a characteristic of the execution by calling a measuring routine ... the measuring routine being called from the intermediate language routine; ... wherein the initialization routine and the measuring routine are provided by the user...” as recited in each of independent claims 1 and 10; further fails to teach “a file initializer to initialize ... the initialization routine being called from the intermediate language routine; ... an execution characteristic measurer to measure ... the measuring routine being called from the intermediate language routine; ... wherein the initialization routine and the measuring routine are provided by the user ...” as recited in independent claim 20; and as pointed out by the applicant’s remarks/arguments on pg. 11, par 6 to pg. 12, par. 5.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

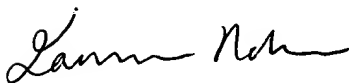
Conclusion

9. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached on (571) 272-3695. The fax phone number for the organization where this application or processing is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Qamrun Nahar
August 12, 2005



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